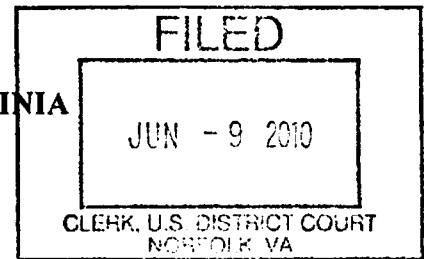


UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Norfolk Division



**GARY SPADY, #377547,**

**Petitioner,**

**v.**

**ACTION NO. 2:09cv453**

**GENE M. JOHNSON, Director of the  
Virginia Department of Corrections,**

**Respondent.**

**FINAL ORDER**

This matter was initiated by petition for a writ of habeas corpus under 28 U.S.C. § 2254. The petition alleged violation of petitioner's constitutional rights pertaining to his convictions in the Circuit Court for the City of Norfolk for possession of cocaine with intent to distribute, and distribution of heroin.

The petition was referred to a United States Magistrate Judge for report and recommendation pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B) and (C) and Local Civil Rule 72 of the Rules of the United States District Court for the Eastern District of Virginia. The Magistrate Judge's Report and Recommendation filed May 19, 2010, recommends dismissal of the petition. In the Report the Magistrate Judge advised the parties of their right to object and the method for doing so. The Court has received no objections to the Report and Recommendation and the time for filing objections has expired.

The Court does hereby accept the findings and recommendations set forth in the Report and Recommendation filed May 19, 2010, and it is therefore ORDERED that respondent's Motion to

Dismiss be GRANTED, and that the petition be DENIED and DISMISSED. It is further ORDERED that judgment be entered in favor of respondent.

Petitioner may appeal from the judgment entered pursuant to this Final Order by filing a written notice of appeal with the Clerk of this court, United States Courthouse, 600 Granby Street, Norfolk, Virginia 23510, within thirty (30) days from the date of entry of such judgment.

Petitioner has failed to demonstrate "a substantial showing of the denial of a constitutional right," therefore, the Court declines to issue any certificate of appealability pursuant to Rule 22(b) of the Federal Rules of Appellate Procedure. See Miller-El v. Cockrell, 123 S.Ct. 1029, 1039 (2003).

The Clerk shall mail a copy of this Final Order to petitioner and to counsel of record for respondent.

  
RAYMOND A. JACKSON

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RAYMOND A. JACKSON  
UNITED STATES DISTRICT JUDGE

Norfolk, Virginia

June 8, 2010